

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
PUBLIC MEETING AGENDA

924 Kellum Street
Fairbanks, AK 99701

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

February 8, 2006
10:00 a.m.

ROLL CALL:

Candice A. Traeger, Chairwoman
Marcy V. Saunders, Board Member
Robert Pacheco, Board Member

MINUTES OF JANUARY 25, 2006

ADMINISTRATIVE MATTERS

(Information regarding the general administration of cases pending before the Appeals Board.)

1. CALENDARING/CASELOAD

NEW BUSINESS

(The Appeals Board hears and discusses new reports presented by staff.)

OLD BUSINESS

(The Appeals Board hears and/or discusses matters on a follow-up basis.)

1. 2006 LEGISLATION
(Review and discuss legislation introduced that impacts the Appeals Board.)
2. 2005/06 BUDGET
(Review and discuss budget issues for this fiscal year.)
3. 2006/07 BUDGET

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(Review and discuss budget issues for this fiscal year.)

CHAIRWOMAN'S REPORT

(Hear report from the Chair on issues affecting the Appeals Board.)

BOARD MEMBERS' REPORTS

(Hear reports from Board Members on issues affecting the Appeals Board.)

EXECUTIVE OFFICER'S REPORT

(Report regarding administrative matters and news from the Department and Appeals Board.)

STAFF REPORTS

(Reports from the Presiding ALJs, the Chief Counsel, and Assistant Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

Any matter not completed at this meeting may be continued to subsequent meetings.

PUBLIC COMMENT

(Public comment will be entertained during the discussion of each agenda item of the Open Meeting.)

APPEALS

(Report of statistics regarding appeals docketed by the Appeals Board for the current month, previous months, and previous four years)

Intents to Appeal in January 2006 _____
Appeals docketed in January 2006 _____

	2001	2002	2003	2004	2005	2006
January	387	586	482	357	422	
February	302	420	405	421	435	
March	421	320	470	513	400	
April	372	559	526	416	406	
May	612	589	359	325	187	
June	421	384	446	486	517	
July	410	511	367	320	372	
August	549	426	345	386	345	
September	350	374	448	269	380	
October	482	438	435	425	346	

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November	507	368	331	332	326	
December	447	389	621	509	442	
TOTAL	5255	5367	5235	4762	4651	

Recess to Closed Session to discuss matters pursuant to Government Code § 11126 (a), (c) (3), and (e) and Labor Code sections 6609 and 6620.

The next Public Meeting/Closed Session is scheduled
Wednesday, February 22, 2006
Cal/ OSHA Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

NOTICE TO PARTIES: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district Office or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**For Further Information
Contact**

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2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751

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State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, February 8, 2006
10:00 a.m.
Fairbanks, Alaska
&
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: Jeff Mojcher, Chief Counsel

DATE: January 27, 2006

RE: Closed Session of the Board on February 8, 2006

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. D.F. TECHNODIESEL, 03-R1D2-4619
2. CHIPS RENNINGER dba GENESIS CONSTRUCTION, 03-R3D1-0020 AND 0021
3. FOAM BUILDERS, INCORPORATED, 03-R2D3-910 AND 911
4. JOSE L. MENDEZ dba MENDEZ CONSTRUCTION, 03-R1D4-1207
5. SHALOM AKWA dba STAR IRON WORKS, 03-R4D1-3593 AND 3594

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ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ALCHEM INDUSTRY AMERICA, 03-R3D5-4184 THROUGH 4188
2. ALLIANCE INDUSTRIES, INC., dba PROSONIC CORPORATION, 02-R5D2-5184 THROUGH 5187
3. ANGELICA TEXTILE SERVICES, 04-R3D2-3581
4. ANGELICA TEXTILE SERVICES, 04-R3D2-3582
5. ANGELICA TEXTILE SERVICES, 04-R3D2-3583 AND 3584
6. BDL PAINTING COMPANY, INC., 03-R2D4-3496
7. BILLY BAINS, 04-R2D3-4652
8. BORGA, INC., 05-R2D5-706
9. CAL STATE UNIVERSITY, CHICO, 05-R2D3-084 AND 085
10. CALIFORNIA SAFETY TRAINING CORP., 04-R2D7-4395 THROUGH 4397
11. LARRY C. CARR dba CARR COMMERCIAL INTERIORS, 03-R4D5-3336
12. CATAME, INCORPORATED, 04-R4D2-3359 THROUGH 3364
13. CENTRAL AIR CONDITIONING, INC., 05-R4D3-051
14. CHANNEL COAST CORPORATION, 04-R4D5-3070
15. CHEROKEE FREIGHT LINES LLC, 05-R2D4-1305 THROUGH 1308
16. CIPANGO WESTERN ENTER INC. dba E.D. LUCE PACKING, 04-R3D5-3588
17. CLOSET CRAFTERS, 04-R4D3-3857
18. CORONADO CONSTRUCTION, 03-R4D4-3324 AND 3325
19. CRESCENTA VALLEY WATER DISTRICT, 04-R4D2-4297 THROUGH 4299

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20. DAVEY TREE EXPERT CO., 05-R1D3-1405
21. DESERET FARMS OF CALIFORNIA, 04-R2D3-4391 AND 4392
22. DING CONSTRUCTION, 04-R4D2-3763 THROUGH 3767
23. GH RESTAURANTS, INC., dba ARBY'S, 04-R2D1-3465
24. GAITEN PLASTERING, 05-R1D5-2080 AND 2081
25. CHRISTOPHER GARRETT, 03-R4D3-3310 THROUGH 3313
26. GEZA LASZLO HORVATH dba ADVANCED CONSTRUCTION, 04-R3D1-3659
THROUGH 3662
27. GREENE & SON ROOFING, 05-R2D3-776
28. HEMET UNIFIED SCHOOL DISTRICT, 04-R3D3-628 AND 629
29. HERITAGE CABINETS, INC., 04-R1D2-2625 THROUGH 2627
30. HOUSING AUTHORITY OF LOS ANGELES, 04-R4D2-3355 THROUGH 3358
31. HUNTINGTON BEACH MARKET BROILER, 05-R3D5-2123
32. J.D. DIFFENBAUGH, INC., 03-R3D3-3795
33. JON DONAIRE DESSERTS, 04-R6D2-2609 THROUGH 2619
34. LAS VEGAS PRODUCTIONS, 04-R4D1-2387 THROUGH 2389
35. LOS ANGELES POULTRY CO., INC., 04-R6D2-3536 THROUGH 3538
36. MERVYN'S DISTRIBUTION CENTER, 03-R1D4-4298
37. CITY OF MILL VALLEY, 05-R1D5-3468
38. MUSCLE DYNAMICS, 02-R6D2-1883 THROUGH 1885
39. NIAGARA BOTTLING, LLC, 04-R3D1-981 THROUGH 983
40. PACIFIC STRUCTURES, 05-R6D2-2727
41. PARK WEBSTER HOMEOWNERS ASSOCIATION, 05-R1D4-1411

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42. PERMACOLD ENGINEERING, INC., 04-R2D7-4535
43. PETE FER & SON PLUMBING, 03-R3D5-4189 AND 4190
44. PIMA CONSTRUCTION dba ADVANCED CONSTRUCTION, 04-R3D1-4173
45. PREFERRED FOOD SERVICE, 04-R6D2-3539 AND 3540
46. PUNCH PRESS PRODUCTS, 04-R4D2-4424 THROUGH 4427
47. RNP CONSTRUCTION, 04-R4D3-4099
48. RESTONIC, INC. dba SLEEPRITE INDUSTRIES, INC., 03-R6D1-0713 THROUGH 0718
49. SDI INDUSTRIES, INC., 03-R4D4-3828 AND 3829
50. SANTOS MONTEMAYOR FARM LABOR CONTRACTOR, 05-R3D7-2990 AND 2991
51. SARA LEE FOODS, 05-R6D1-3055 THROUGH 3059
52. SAUSAL CORPORATION, 05-R1D4-774
53. SIERRA PACIFIC INDUSTRIES, 02-R2D4-2513 AND 2514
54. SIGNS AND PINNICK, 05-R3D2-2668
55. SOLTEK PACIFIC, 03-R3D3-3548
56. SOUTHWEST MILL & LUMBER, INC., 03-R6D2-3844 THROUGH 3848
57. STAR FRAMING, INC., 02-R3D3-5277 AND 5278
58. STYRO TEK, INC., 05-R2D5-785
59. TAPIA FARM LABOR SERVICE, 04-R2D3-4165 AND 4166
60. ULTIMATE FORMULATIONS/BEST FORMULATIONS, 04-R4D4-3862 AND 3863
61. W.D. GOTT CONSTRUCTION, 04-R4D2-3959 THROUGH 3961
62. WALGREENS STORE #2426, 05-R1D4-700 AND 701
63. WARDLOW TILE & STONE, INC., 04-R2D1-2661 THROUGH 2664
64. WEYERHAEUSER COMPANY, 04-R4D2-4198

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PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. BORDEN MANUFACTURING, 04-R2D3-4390
2. GOODYEAR TIRE, 03-R4D3-294 THROUGH 296
3. McDONALD'S, 03-R1D3-4116 AND 4117
4. RAYMOND ANDERS PAINTING, 02-R1D4-2680 THROUGH 2686

DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):

1. RAYMOND ANDERS PAINTING, 02-R1D4-2680 THROUGH 2686

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

ACE LATH & PLASTERING, 01-R6D1-4798 through 4806
B & T INDUSTRIES, 03-R6D1-847 THROUGH 852
BLF FRAMING, 02-R4D3-1837 & 1838
BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
BEHAVIORAL HEALTH SERVICES, INC., 01-R3D5-3995 through 3997
BILL CALLAWAY & GREG LAY dba WILLIAMS REDI MIX, 03-R2D1-2400
BLUE DIAMOND MATERIALS, 02-R5D2-1268
CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
COX COMMUNICATIONS, 03-R3D2-1942
DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
FCI CONSTRUCTORS, 01-R4D4-2161 & 2162
HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
HEARN CONSTRUCTION, INC., 02-R6D1-3533 through 3536
HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
ILH CONSTRUCTION, 02-R1D1-4171 & 4172
IMPERIAL HIGHWAY CHEVRON, 03-R4D2-2778 through 2780

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J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
JA CON CONSTRUCTION, INC., 03-R3D2-441
JAMES HIGBY ENGINEERING, 02-R4D3-4562 through 4567
JERLANE, INC., dba COMMERCIAL BOX AND PALLET, 01-R3D2-4344
K. A. BINE CONSTRUCTION, 03-R1D5-2031
KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
KEYSOR-CENTURY CORPORATION, 02-R3D7-745 through 771
KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 through 1209 & 02-1273
KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
LONG BEACH CITY COLLEGE, 03-R3D5-2747
LOWPENSKY MOULDING, 03-R1D1-3405
MCI WORLDCOM INC., 00-R1D1-440 through 442
MEDALLION INDUSTRIES, INC., 02-R6D1-2825 through 2830
MORILLO CONSTRUCTION, 03-R4D2-1218 through 1222
McDONALDS #10660, 03-R1D3-4116 & 4117
NEW ENGLAND SHEET METAL WORKS, 02-R2D5-2091
NIBBLELINKS MASONRY CONSTRUCTION, 02-R3D3-1399 through 1401
NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 through 202
PMR RACE CARS, 03-R3D3-1824 & 1825
POUK & STEINLE, INC., 03-R4D2-1495 & 1496
RII PLASTERING INC., 02-R3D1-2679
RAMONA EQUIPMENT RENTAL, INC., 02-R3D2-2944 through 2948
SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 through 1656
SHEFFIELD FURNITURE CORPORATION, 00-R6D2-1322 et. al. & 01-1397
SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
STILES PAINT MANUFACTURING, 02-R1D4-1630
STOCKTON TRI INDUSTRIES, INC., 02-R5D1-4946
STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
TRIO METAL, 03-R4D4-0316 & 0317
UNITED AIRLINES, 00-R1D5-2844
WAREHOUSE DEMO SERVICES, 03-R1D4-3427
WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

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PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. ARB, INC., 01-R3D1-2119
2. LUIS AVILA dba E & L AVILA LABOR CONTRACTORS, 00-R3D2-4067
3. BLF FRAMING, 02-R4D3-1837 AND 1838
4. BENICIA FOUNDRY & IRON WORKS, 00-R2D2-2976 THROUGH 2987
5. CASTLE PRECISION INDUSTRIES, 01-R4D3-652 THROUGH 656
6. DSS ENGINEERING CO., 99-R2D2-1023
7. DESILVA GATES CONSTRUCTION, 01-R2D2-2741
8. HFS INVESTMENTS, INC., dba HADLEY AUTO TRANSPORT, 96-R1D3-3079
9. HARBOR SAND & GRAVEL, 01-R1D3-1016
10. MATAROZZI-PELSINGER BUILDERS, 01-R1D1-1400
11. MOUNTAIN CASCADE, INC., 01-R1D4-3561
12. PACIFIC RESOURCES RECOVERY, 00-R4D2-1108 AND 1109
13. RUDOLPH AND SLETTEN, INC., 01-R1D5-478
14. SUNRISE WINDOW CLEANERS, INC., 00-R4D1-3220 AND 3221
15. TEICHERT AGGREGATES, 00-R5D1-1193
16. TUTOR-SALIBA-PERINI, 97-R6D2-3209 THROUGH 3212
17. UNDERGROUND CONSTRUCTION CO., 00-R1D4-2356
18. VANCE BROWN, INC., 00-R1D2-3318 AND 3319

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APPELLATE COURT:

1. BRAGGE CRANE, 01-R3D1-2428
2. BEUTLER HEATING & AIR CONDITIONING, 00-R1D5-014
3. C. OVERAA AND COMPANY, 01-R1D4-3560
4. MOUNTAIN CASCADE, INC., 99-R1D4-1024
5. SULLY-MILLER CONTRACTING CO., 99-R3D3-896
6. TEICHERT CONSTRUCTION, 98-R2D1-2512
7. THE HERRICK CORPORATION, 97-R1D1-1373

OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

1. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
Discuss Answer in Opposition to Petition for Reconsideration and take appropriate action.
2. STOCKTON TRI INDUSTRIES, INC., 02-R5D1-4946
Discussion on Decision After Reconsideration and take appropriate action.
3. THE HERRICK CORPORATION, 1997-R1D3-2603
Discuss court judgment ordering rescission of Decision After Reconsideration and take appropriate action.

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.